

Notice of Allowability**Application No.**

10/062,857

Applicant(s)

ERLANDER ET AL.

Examiner

Joyce Tung

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to April 9, 2004.
2. ☒ The allowed claim(s) is/are claims 1-32.
3. ☒ The drawings filed on 10/25/01 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 5/10/2004.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

The applicant's Response (filed April 9, 2004) to the Office action has been entered.

Claims 1-32 are pending.

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Kawai Lau on 5/10/2004.

2. The application has been amended as follows:

In claims 1, 6 and 23, line 9; respectively delete "synthesizing one or more than one first strand cDNA by reverse transcription of said first complex".

3. The following is an examiner's statement of reasons for allowance:

Concerning claims 1-32, no prior art has been found teaching or suggesting the method of amplifying RNA sequence complementary to one or more than one target polynucleotide that is single stranded or made single stranded, comprising forming double stranded cDNA templates containing the template by annealing the one or more than one single stranded target polynucleotide with a first oligonucleotide comprising a primer operably linked to a promoter region to form a first complex, synthesizing the first strand cDNA by reverse transcriptase, degrading first oligonucleotide not used, annealing the first strand cDNA with a plurality of second oligonucleotides comprising a random primer region which has at least two nucleotides sequence to form one or more than one double stranded cDNA templates with DNA polymerase

Art Unit: 1637

activity and transcribing the cDNA templates with an RNA polymerase to produce amplified RNA containing sequences complementary to the target polynucleotide.

The closest prior art is the reference of Van Gelder et al. (5,545,522, issued August 13, 1996). Van Gelder et al disclose a method of producing RNA using a complementary primer linked to an RNA polymerase promoter region complement (See the Abstract). Van Gelder et al. do not disclose a second primer comprising a random primer region, which has at least two nucleotides sequence to form one or more than one double stranded cDNA.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joyce Tung whose telephone number is 571 272-0790. The examiner can normally be reached on Monday - Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on 571 272-0790. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joyce Tung 3-7
May 10, 2004


KENNETH R. HORLICK, PH.D
PRIMARY EXAMINER
5/10/04